

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

KEITH MANFREDI,	:	
	:	Civil Action No. 12-1905 (RMB)
Petitioner,	:	
	:	
v.	:	<b>OPINION</b>
	:	
UNITED STATES OF AMERICA,	:	
et al.,	:	
	:	
Respondents.	:	

**APPEARANCES:**

KEITH MANFREDI, Petitioner Pro Se  
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**BUMB**, District Judge

This matter is before the Court on Petitioner Keith Manfredi's motion for summary judgment (Docket Entry No. 2), filed on or about May 14, 2012, with respect to his petition for habeas corpus relief under 28 U.S.C. § 2241. This motion is decided without oral argument pursuant to Fed.R.Civ.P. 78. For reasons discussed below, Petitioner's motion for summary judgment will be denied.

I. DISCUSSION

On or about March 28, 2012, Petitioner, Keith Manfredi, filed a petition for habeas corpus relief, pursuant to 28 U.S.C. § 2241, seeking his immediate release from prison and challenging

a 2011 prison disciplinary proceeding that resulted in the loss of good conduct time. Principally, Petitioner asserts that he was denied fundamental due process with respect to his disciplinary proceeding, namely, failure to provide timely notice of the charges and the hearing, and the denial of an opportunity to present witnesses and documentary evidence. Petitioner paid the filing fee in this matter on April 9, 2012.

On or about May 14, 2012, Petitioner filed a motion for summary judgment. At the time that Petitioner filed his motion, this Court had not yet issued an Order directing the Respondents to file an answer to the petition together with the relevant records. Thus, the Respondent Government has not filed an answer to the habeas petition, and this Court does not have the relevant record necessary to determine the merits of Petitioner's claim for habeas relief.

Summary judgment is appropriate in a habeas proceeding, as in other cases, when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed.R.Civ.P. 56(e).

As demonstrated above, there is no response from the Respondents or the relevant administrative record necessary to determine whether there is an absence of a genuine issue of

material fact in this case. Consequently, where there has been no demonstration that material facts are not in dispute in this case, it is premature to decide Petitioner's motion for summary judgment in his favor. Therefore, Petitioner is not entitled to summary judgment at this time, and his motion will be denied without prejudice accordingly.

CONCLUSION

For the foregoing reasons, this Court concludes that Petitioner's motion for summary judgment is premature and should be denied without prejudice at this time. An appropriate Order follows.

s/Renée Marie Bumb  
RENÉE MARIE BUMB  
United States District Judge

DATED: July 13, 2012